

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 AARON A. ELLIOTT,

12 Plaintiff,

13 v.

14 FRANK T. ELLIOT, III, et al.,

15 Defendants.
16

Case No. 1:21-cv-000897-NONE-SAB

ORDER REQUIRING DEFENDANTS TO
FILE RESPONSIVE PLEADING

SEVEN DAY DEADLINE

17 On March 26, 2021, Aaron A. Elliott (“Plaintiff”) filed this action in the Tulare County
18 Superior Court against Frank T. Elliott, III, individually and in his capacity as trustee of the
19 Aaron A. Elliott 2006 irrevocable trust, Wileman Bros. & Elliott Inc., and Brian Johnson
20 (“Defendants”) alleging violations of the Perishable Agricultural Commodities Act (“PACA”), 7
21 U.S.C. §499(b) and California law. (ECF No. 1 at 8-30.) Service of the summons and complaint
22 was completed on April 29, 2021. (ECF No. 1 at 105-113.) On June 4, 2021, Defendants
23 removed the action to the Eastern District of California. (ECF No. 1.)

24 Pursuant to the Federal Rules of Civil Procedure, “[a] defendant who did not answer
25 before removal must answer or present other defenses or objections under these rules within the
26 longest of these periods: (A) 21 days after receiving--through service or otherwise--a copy of the
27 initial pleading stating the claim for relief; (B) 21 days after being served with the summons for
28 an initial pleading on file at the time of service; or (C) 7 days after the notice of removal is

1 filed.” Fed. R. Civ. P. 81(c)(2).”

2 Defendants’ notice of removal does not include an answer filed in the state court.
3 Accordingly, IT IS HEREBY ORDERED that Defendants shall file a responsive pleading within
4 **seven (7) days** of the date of entry of this order.

5
6 IT IS SO ORDERED.

7 Dated: **June 7, 2021**


UNITED STATES MAGISTRATE JUDGE